

## **REMARKS**

Claims 1-16, 20, 21,23 remain pending in this application. Claims 20, 21 and 23 have been withdrawn. Claims 18, 19 and 22 have been cancelled

### **Rebutal to Examiner's Response**

In response the Applicant's Argument that the art cited in the rejection of Claims 1,16, 18, 19 and 22 does not disclose a unique user name and password for accessing the survey form, the Office acknowledges that Schillewaert only discloses the users are individually identified by their e-mail address. An unknown email address used to access the survey in Schillewaert does not equate to providing a unique ID and password as recited in the Claims. This unequivalence is clearly evident noting that the Office has resorted to an uncited and unapplied reference, Thomas, to provide a teaching for the unique ID. Thomas is not cited in the standing Rejection and thus it is clear that as presently stated, the Office has failed to establish a prima facie case of obviousness as laid out below.

In response to the Applicant's argument that the cited art, specifically Schillewaert does not disclosed providing an incentive to respond to the survey, the Office states that Schillewaert discloses providing an incentive for users to completely respond to the survey. However, this incentive is to provide identity information, and the incentive is at

the end of the questionnaire and thus the survey participants have already responded, and the participant have no knowledge of the incentive until the survey is complete.

Therefore, in no manner could Schillewaert serve as a teaching of the use of an incentive in a mail package that includes the username and ID just to access the survey. It is clear that the Office has failed to establish a prima facie case of obviousness as discussed below.

In response to the Applicant's arguments that the cited art fails to teach a postage prepaid response card and emailing the named individual including an email address which includes the name of the institution, the Office states that Schillewaert also discloses mail surveys and emailing. However, any clear ready of Schillewaert (which measures the performance of non probability recruitment methods) does not include a teaching, on page 4 or otherwise, for using mail surveys and email surveys and web based survey in combination. Furthermore, the Office's own conclusion that "the concepts described by Schillewaert are intended to be an advancement to paper-based surveys for purposes of increase cost savings, convenience, and flexibility" teaches against the proposed combination. Therefore, as discussed below, the Office has not made a prima facie case of obviousness and has not bolstered the rejection with this subsequent Office action, which merely mimics the previous one.

In response to the Applicant's argument that the cited art does not disclose e-mailing each candidate from an individual at an e-mail address, which includes the name of the institution, the Office states, Thomas discloses sending the user an email, which includes a notification and instruction information, both of which would obviously include information regarding who/what was sending the survey to be completed. On what legal basis is the Office relying on, if it is obviousness, then a teaching must be provided, if it is inherency, then a notification must necessary include these, which the Office has not and cannot show. The Office has failed to establish a *prima facie* case of obviousness as discussed below.

The Applicant submits that the previous and current rejections are improper and must be withdrawn.

**REJECTIONS UNDER 35 U.S.C. 103(a)**

Claims 1, 16, 18, 19 and 22 are improperly rejected as being unpatentable over Sanoff et al. (Sanoff, Alvin P.; Glastris, Kukula, The Consulting game: Schools turn to outside help to target and select students." US News & World Report, v119, n11, p119(4), September 18, 1995) in view of Schillewaert et al. (Schillewaert, Niels; Langerak, Fred; Duhamel, Tim, "Non-probability sampling for WWW surveys: a comparison of methods." Journal of the Market Research Society, October 1998.).

The Office acknowledges that "Sanoff fails to expressly disclose... (e) preparing a mailing package for each candidate which includes an incentive to respond and a unique user name and password for accessing the survey form by the internet."

The Office improperly attempts to use Schillewaert to provide this deficiency. However, NOWHERE does Schillewaert disclose a unique user name and password for accessing the survey form. Without a teaching of all the limitation between the combined references, the rejection is improper. Furthermore, Schillewaert does not know the respondents and thus could not provide them with a unique password and ID.

In addition, Schillewaert does not disclose including an incentive to respond to the survey as required in the Claims. Schillewaert specifically discloses an incentive to provide a name after the survey has been completed and thus the disclosure cannot be read as an incentive to respond to the survey. Schillewaert states:

"At the end of the questionnaire all participants were asked to identify themselves if they wanted to receive a summary of the study results and participate in a contest organized among respondents." Page 5

Clearly the survey has been completed at such point and thus the incentive is not to responds but rather to provide an identity. The rejection is again improper for failing to teach this limitation.

Claim 1 cannot be unpatentable over Sanoff and Schillewaert, the references alone or in combination fail to teach the limitation of a unique user name and password and also fail to teach the limitation of an incentive to respond to the survey. The rejection is improper and must be withdrawn.

The rejection of Claim 16 also fails for similar reasons as identified above. In addition, Sanoff, as admitted by the Office, and Schillewaert fail to disclose the limitation of "a postage prepaid response card", or an email that "includes the name of the institution". The rejection is thus improper and must be withdrawn.

Claims 2-6 and 8-15 are improperly rejected as being unpatentable over Sanoff et al. (Sanoff, Alvin P.; Glastris, Kukula, The Consulting game: Schools turn to outside help to target and select students." US News & World Report, v119, n11, p119(4), September 18, 1995) in view of Thomas (US 2002/0002482 A1).

The Office Acknowledges that Sanoff fails to "disclose ...(e) e-mailing each candidate from a named individual at an e-mail address which includes the name of the institution."

The Office improperly uses Thomas in an attempt to correct the deficiency, however, NOWHERE does Thomas disclose the sending of an email from a named

individual at email address which includes the institutions name to each candidate.

Therefore, the rejection is improper and must be withdrawn.

Likewise claims 3-6, 8-15 depend from claim 2 and thus their rejections are improper for the same reason irrespective of the additional subject matter recited therein.

Claim 7 is improperly rejected as being unpatentable over Sanoff et al and Thomas in view of De Rafael et al.

Claim 7 ultimately depends from Claim 2, the addition of De Rafael does nothing to obviate the deficiencies of Sanoff and Thomas with respect to Claim 2 as discussed previously and thus the rejection is equally improper.

### **CONCLUSION**

The Examiner has fail to provide a *prima facie* case of obviousness. Each element recited in the claims have not been met by the references alone or in combination. The Applicants request withdrawal of the rejections, and if the rejections are maintained an element by element accounting of the claim terms in the cited art.

If the Examiner has any questions relating to this response or the application in general she is respectfully requested to contact the undersigned so that prosecution may be expedited.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to **Deposit Account No. 04-1679**.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Mark C. Comtois', written over a horizontal line.

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Date: March 1, 2007